



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Sellers Engineering Co.

File: B-226777

Date: June 26, 1987

DIGEST

A prospective supplier does not have the requisite interest to be considered an interested party to protest under the Competition in Contracting Act of 1984, since it is not a prospective or actual offeror.

DECISION

Sellers Engineering Co. protests that invitation for bids No. DACA21-87-B-0036, issued by the United States Army Corps of Engineers for upgrading the central heating plants at Pope Air Force Base, is unduly restrictive of competition. Specifically, Sellers charges that certain specifications regarding six firetube boilers that are a part of the heating plant upgrade preclude the use of boilers manufactured by Sellers and are not necessary to meet the needs of Pope Air Force Base. We dismiss the protest.

Under the Competition in Contracting Act of 1984 (CICA), our Office only decides protests filed by an "interested party," which CICA defines as an "actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract." 31 U.S.C. § 3551(2) (Supp. III 1985); 4 C.F.R. § 21.0(a) (1986); Microrim, Inc.--Request for Reconsideration, B-225525.2, Jan. 14, 1987, 87-1 C.P.D. ¶ 58. A prospective subcontractor or supplier does not have the requisite interest to be considered an interested party to protest under CICA since it is not a prospective or actual offeror. Id.

The present solicitation requires more than installation of the six boilers. The specifications require much work that is basic construction work, including, among other things: excavation, concrete/masonry work, electrical work, painting, and landscaping. It is apparent that Sellers--a manufacturer of these boilers--is not in a position to compete for the entire project. The contracting officer

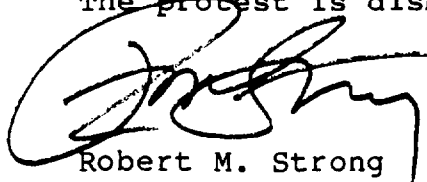
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reports that he worked with Sellers' representative to try to eliminate any barriers to Sellers participating as a supplier. Moreover, Sellers does not contend that it intended to bid as a prime contractor for this requirement but, rather, argues that:

"Suppliers have a great deal of expertise in areas that the government does not. Suppliers should be considered offerors of products. Our economic interest could very definitely be affected by contract awards. It should not be required that we be offering directly to the government, particularly since the government is not directly purchasing the individual products but is purchasing an entire installed system."

As our jurisdiction to adjudicate bid protests is limited by CICA to protests brought by actual or prospective bidders or offerors (31 U.S.C § 3551(2)), we will not resolve Sellers' protest on its merits.

The protest is dismissed.



Robert M. Strong
Deputy Associate
General Counsel